

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

In the Matter of New York)
Power Authority Customer) Case 16-M-0395
Opt-In to Clean Energy)
Programs)

Proceeding on Motion of the)
Commission to Consider a) Case 14-M-0094
Clean Energy Fund)

In the Matter of Utility) Case 15-M-0252
Energy Efficiency Programs)

**REPLY OF THE JOINT UTILITIES TO INITIAL COMMENTS ON THE PROPOSAL
TO ALLOW NEW YORK POWER AUTHORITY CUSTOMERS TO PARTICIPATE IN
CLEAN ENERGY PROGRAMS**

Pursuant to the *Notice Concerning New Case Number and Soliciting Comments*¹ (the “Notice”) issued by the New York State Public Service Commission (the “Commission”) on July 12, 2016, Central Hudson Gas and Electric Corporation, Consolidated Edison Company of New York (“Con Edison”), Niagara Mohawk Power Corporation d/b/a National Grid, New York State Electric & Gas Corporation, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation (collectively, the “Joint Utilities” or the “Utilities”) respectfully submit these reply comments to address parties’ initial comments responding to the Notice and clarify several areas of the *Proposal of the Joint Utilities to Allow New York Power Authority Customers to Participate in Clean Energy Fund Programs*² (the “Joint Utilities’ Proposal”) that were apparently misunderstood based on the parties’ initial comments.

¹ Case 16-M-0395. *In the Matter of New York Power Authority Customer Opt-In to Clean Energy Programs* (“NYPA Customer Opt-In Proceeding”), Notice Concerning New Case Number and Soliciting Comments (issued July 12, 2016).

² Case 14-M-0094, *Proceeding on Motion of the Commission to Consider a Clean Energy Fund*, Proposal of the Joint Utilities to Allow New York Power Authority Customers to Participate in Clean Energy Fund Programs (filed June 30, 2016) (“Joint Utilities’ Proposal”).

I. Allowing New York Power Authority Customers to Opt-Out is Unfair to Other Customers

The Joint Utilities disagree with the assertion in the *Comments of the New York Power Authority* (“NYPA Comments”)³ that New York Power Authority (“NYPA”) customers should be allowed to opt-out of paying clean energy surcharges upon conclusion of a specific funding authorization.⁴ The Joint Utilities emphasize that no other customer is afforded this choice, and existing programs would become unworkable if customers were allowed to pick and choose which programs they chose to support. Moreover, for the reasons stated in the Joint Utilities’ Proposal, NYPA customers inherently have significant advantages in drawing upon program funds in excess of their collective contributions when compared to other customers because NYPA customers are able to make their opt-in decision based on the economics of a specific project or incentive.⁵ Indeed, an analysis performed by Con Edison demonstrates that a NYPA customer performing a lighting upgrade in a typical low-income housing unit would likely never fully “repay” the program, as the value of the incentive exceeds the net present value of future contributions through year 24, far beyond the useful life of existing lighting technology, which would likely be replaced in the interim using additional incentive funding.⁶ Allowing a NYPA customer to opt out at some interim point would exacerbate the inequity of voluntary opt-in. Contrary to NYPA’s assertions that the Joint Utilities’ Proposal “goes against the plain language of the [Clean Energy Fund] CEF Order⁷ in which the Commission directed the utilities to

³ NYPA Customer Opt-In Proceeding. Comments of the New York Power Authority (filed September 6, 2016). p. 11.

⁴ NYPA Comments, pp. 4-6.

⁵ Joint Utilities’ Proposal, pp. 4, 9-10.

⁶ *Id.*

⁷ Case 14-M-0094, *Proceeding on Motion of the Commission to Consider a Clean Energy Fund*, Order Authorizing the Clean Energy Fund Framework (issued January 21, 2016) (“CEF Order”).

propose a minimum opt-in period,”⁸ the Joint Utilities’ Proposal meets the Commission’s requirement with the minimum period being the life of the customer account. Finally, NYPA’s argument that the Joint Utilities’ Proposal “would likely create a chilling effect on participation due to a large degree of unjustified uncertainty regarding future costs for a customer evaluating whether to participate in the Clean Energy Programs”⁹ ignores the fact that NYPA customers, like other customers paying into the clean energy surcharge, may choose to take advantage of additional program funds in the future.

II. NYPA Customers Should Be Required to Opt-In to Both Clean Energy Fund and Utility Energy Efficiency Program Surcharges¹⁰

The Joint Utilities disagree with the argument in the NYPA Comments that NYPA customers should be allowed to pick and choose which clean energy programs to participate in.¹¹ As noted above, no other customer is afforded this choice. Furthermore, allowing NYPA customers to selectively choose which program to participate in could create gaming issues and reintroduce unwanted competition between utility programs and New York State Energy Research and Development Authority (“NYSERDA”) programs, which could damage efforts to create comprehensive and complementary clean energy programs across the State.¹² Moreover, allowing NYPA customers to reduce their overall clean energy contributions by choosing to opt-in to only one clean energy program would only lengthen the time it would take for a NYPA

⁸ NYPA Comments, p. 5.

⁹ *Id.*

¹⁰ The Joint Utilities clarify that “Utility Energy Efficiency Programs” would include any “beyond-ETIP” programs, including those for which program funding is included in utility rates, but not charged to NYPA customers.

¹¹ NYPA Comments, p. 6.

¹² The Clean Energy Implementation and Coordination Working Group underneath the Clean Energy Advisory Council established by the Clean Energy Fund Order is focused on increasing coordination between the utilities, NYSERDA, NYPA, and LIPA to develop and offer coordinated and impactful clean energy programs across the State.

customer to “repay” its incentive funds to clean energy programs as a whole so that these funds are available for use by other customers. Finally, such an option would introduce considerable complexity and require further costly changes to utility billing systems.

III. Automatic Enrollment

In response to the *Initial Comments of the City of New York* (“NYC Comments”),¹³ the Joint Utilities clarify that their intent was to provide automatic enrollment into Clean Energy Fund and Energy Efficiency Transition Implementation Plan programs upon customer acceptance of any incentive or award. To the extent a resource solicitation is structured as a “pay-as-bid” procurement that requires all bidders to guarantee acceptance upon contract award in order to participate, submitting a bid would constitute acceptance of the incentive or award.¹⁴

IV. Opt-In Mechanism

In response to the NYC Comments and the *Initial Comments of National Fuel Gas Distribution Corporation in Response to the July 12, 2016 Notice Concerning New Case Number and Soliciting Comments* (“NFG Comments”),¹⁵ the Joint Utilities clarify that NYPA customers would be allowed to opt in to the Clean Energy Fund on a rolling basis, but that these opt-ins would be processed twice each year for administrative ease. While details of this process would need to be developed, an illustrative example could include a NYPA customer applying for an incentive in April and receiving an award in June, opting into the clean energy surcharge at the time of award. The customer would be added to the next “batch” of enrollments, which may be processed in September, for example, with surcharges appearing on its bill for the first time in

¹³ NYPA Customer Opt-In Proceeding. Initial Comments of the City of New York (filed September 6, 2016) (“NYC Comments”), p. 7.

¹⁴ Certain non-wires alternative programs that are soliciting resources for an imminent electric distribution need may require bidders to certify that they will accept the award and move forward with the project should their bid be selected.

¹⁵ NYPA Customer Opt-In Proceeding. Initial Comments of National Fuel Gas Distribution Corporation in Response to the July 12, 2016 Notice Concerning New Case Number and Soliciting Comments (filed September 6, 2016) (“NFG Comments”), p. 3.

October. This pooling of new enrollments and processing them in “batches” every six months would reduce administrative costs associated with implementation.¹⁶

The Utilities further clarify that a “one-time election” simply refers to a NYPA customer’s ability to elect to opt-in any given account one time, with no ability to opt-out at a future date. NYPA customers should not be allowed to switch back and forth between participating and not participating in clean energy programs.

V. Billing and Administration

In response to the NYC Comments,¹⁷ the Joint Utilities clarify that a separate bill would not be issued for any clean energy surcharge. NYPA customers who receive a bill from NYPA would continue to receive their bill from NYPA, with surcharge amounts allocated to individual customers according to their accounts’ opt-in status.¹⁸ Any NYPA customers who receive a bill from their utility would continue to do so, with any clean energy surcharge allocated as appropriate on that bill.

In response to the NYPA Comments, the Joint Utilities had envisioned a process whereby enrollments in clean energy programs would be passed along to NYPA by NYSERDA and the utilities, respectively.¹⁹ NYPA would conduct any needed verification of a customer’s status and whether appropriate accounts had been identified for opt-in. NYPA would then advise the utilities as to which of their accounts should be flagged in the utility billing systems for the application of clean energy surcharges. This approach is appropriate as NYPA is responsible for

¹⁶ This batch processing is particularly important to the billing processes established between Con Edison and NYPA, as a rolling enrollment would be challenging to track and verify.

¹⁷ NYC Comments, p. 8.

¹⁸ Con Edison and NYPA would implement billing system changes to integrate this change into existing billing processes.

¹⁹ For customers enrolled in NYPA’s Economic Development Programs, utilities reserve the option to verify if the NYPA energy allocation for a customer has exceeded historical energy use prior to submitting the enrollment to NYPA.

managing the relationship with its customers, issuing customer bills, and addressing customer disputes. NYPA is better positioned to address these issues than the utilities.

VI. Conclusion

The Joint Utilities appreciate the opportunity to submit these reply comments. In creating the Joint Utilities' Proposal, the Utilities sought to balance the competing objectives of expanding access to clean energy programs with maintaining equity for other customers. The Joint Utilities' Proposal accomplishes these objectives and should be adopted.

Respectfully submitted,

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